

Block Association; public area beautification and preservation. A nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the members' property rights, will not qualify for exemption under section 501(c)(3) of Code but may qualify under section 501(c)(4); Rev. Rul. 68-14 distinguished.

Advice has been requested whether the nonprofit organization described below qualifies for exemption from Federal income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

The organization was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consist of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas within the block. Much of the public area improved by the organization is part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization.

Membership in the organization is restricted to residents of the block and those owning property or operating businesses there. The organization's support is derived from receipts from block parties and voluntary contributions from members.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized and operated exclusively for charitable purposes unless it serves a public rather than a private interest. To meet this requirement that it serve a public purpose, an organization must establish that it is not organized or operated for the benefit of private interests.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civil leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization coming within the scope of this section is one which is operated to bring about civic betterment and social improvements.

In the instant case the organization's activities promote social welfare because they beautify and preserve public property in cooperation with the local government. Although these activities are limited to a particular block, the community as a whole benefits from them. See Rev. Rul. 74-99, 1974-1 C.B. 131, which indicates that an association of homeowners that owns and maintains only common areas and facilities traditionally recognized as being a direct governmental concern in the exercise of powers and duties entrusted to government to regulate health, safety, and welfare may overcome the presumption that it is organized and operated primarily for the benefit of members and qualify for exemption under section 501(c)(4) of the Code.

Accordingly, the organization qualifies for exemption from Federal income tax under section 501(c)(4) of the Code.

By enhancing the value of the roadway sections abutted by property of its members, the organization is enhancing the value of its members' property rights. The restricted nature of its membership and the limited area in which its improvements are made, indicate that the organization is organized and operated to serve the private interests of its members within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Accordingly, although the organization is primarily engaged in promoting the general welfare of the community, it is not organized and operated exclusively for charitable purposes. Therefore, it does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 68-14, 1968-1 C.B. 243, which holds that a nonprofit organization formed to preserve and develop the beauty of a city qualifies for exemption under section 501(c)(3) of the Code, is distinguishable because in that Ruling the organization had a broad program to beautify the city rather than one restricted to improving the area adjacent to the residence of its own members.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1024, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(4) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.